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SOUTHERN DISTRICT COURT  
CITY OF LOS ANGELES, CALIFORNIA  
DEPUTY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

JAMES EUSSE, JR.,

Plaintiff,

vs.

MARCO VITELA, et al.,

Defendants.

CASE NO. 13cv916 BEN (NLS)

**ORDER ADOPTING  
REPORT AND  
RECOMMENDATION**

[Docket Nos. 18, 21, 23]

On February 28, 2014, Defendants E. Duarte, M. Carpio, R. Nelson, G. Janda, M. Whitman, and M. Vitela filed a motion to dismiss portions of Plaintiff James Eusse, Jr.'s First Amended Complaint. (Docket No. 18.) On April 28, 2014, Plaintiff filed a motion for leave to file a second amended complaint. (Docket No. 21.) On June 10, 2014, Magistrate Judge Nita L. Stormes issued a Report and Recommendation recommending the Court grant Plaintiff James Eusse, Jr.'s motion for leave to file a second amended complaint and deny Defendants' motion to dismiss as moot. (Docket No. 23.) Any objections to the Report and Recommendation were due June 24, 2014. (*Id.*) Neither party has filed any objections. For the reasons that follow, the Report and Recommendation is **ADOPTED**.

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1       A district judge “may accept, reject, or modify the recommended disposition” of  
2 a magistrate judge on a dispositive matter. FED. R. CIV. P. 72(b)(3); *see also* 28 U.S.C.  
3 § 636(b)(1). “The district judge must determine de novo any part of the [report and  
4 recommendation] that has been properly objected to.” FED. R. CIV. P. 72(b)(3).  
5 However, “[t]he statute makes it clear that the district judge must review the magistrate  
6 judge’s findings and recommendations de novo *if objection is made*, but not  
7 otherwise.” *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en  
8 banc) (emphasis in original); *see also* *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th  
9 Cir. 2005). “Neither the Constitution nor the statute requires a district judge to review,  
10 de novo, findings and recommendations that the parties themselves accept as correct.”  
11 *Reyna-Tapia*, 328 F.3d at 1121.

12       In the absence of any objections, the Court fully **ADOPTS** Judge Stormes’  
13 Report and Recommendation. Plaintiff’s motion for leave to file a second amended  
14 complaint is **GRANTED**, and Defendants’ motion to dismiss is **DENIED** as moot.

15       Plaintiff shall file his second amended complaint on or before **July 25, 2014**.

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17       **IT IS SO ORDERED.**

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19       DATED: June 25, 2014



HON. ROGER T. BENITEZ  
United States District Judge

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